



26 APR 2002

Michael S. Greenfield
McDonnell Boehnen Hulbert & Berghoff
300 South Wacker Drive, 32 Floor
Chicago, IL 60606

In re Application of :
CARTIER, Jean René et al. :
Application No.: 09/856,349 :
PCT No.: PCT/FR99/02913 :
Int. Filing Date: 25 November 1999 :
Priority Date: 26 November 1998 :
Attorney's Docket No.: 01-618 :
For: MULTIVALENT T.D. POLIO VACCINE :
AGAINST AT LEAST DIPHTHERIA, :
POLIOMYELITIS AND TETANUS :

DECISION ON

PAPERS

UNDER 37 CFR 1.42

This is a decision on applicants' response to the Notification of Missing Requirements filed 28 February 2002. A review of the Declaration reveals an indication that joint inventor Jean René Cartier is deceased. Applicants' submission has been treated as a request for status under 37 CFR 1.42.

BACKGROUND

On 25 November 1999, applicants filed international application PCT/FR99/02913, which claimed a priority date of 26 November 1998. A copy of the international application was communicated to the United States Patent and Trademark Office (USPTO) from the International Bureau on 02 June 2000. On 13 June 2000, a demand for international preliminary examination was filed within nineteen months from the priority date. As such, the deadline for entry into the national stage in the United States was 29 May 2001 (26 May 2001 was a Saturday and 28 May 2001 was a holiday).

On 18 May 2001, applicants filed a submission for entry into the national stage in the United States which was accompanied by, *inter alia*, the U.S. Basic National Fee.

On 27 June 2001, USPTO mailed a Notification of Missing Requirements (Form PCT/DO/EO/905) indicating, *inter alia*, that an oath or declaration of the inventors, in compliance with 37 CFR 1.497(a)-(b) was required.

On 28 February 2002, applicants submitted a declaration accompanied by, *inter alia*, a petition for a five month extension, the fee for a five month extension, and an English translation of the international application. The papers were filed with a certificate of mailing indicating that the papers were deposited in first class mail on 25 January 2002.

DISCUSSION

Under 35 U.S.C. §117, legal representatives of deceased inventors may make application for patent upon compliance with the requirements and on the same terms and conditions applicable to the inventor. The "legal representative (executor, administrator, etc.) of the deceased inventor may make the necessary oath or declaration, and apply for and obtain the patent." 37 CFR 1.42.

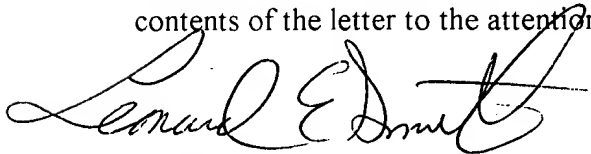
The declaration must list the citizenship, residence and postal address for those who constitute the legal representative, in addition to the information of the inventors. See 37 CFR 1.497. In this case, the declaration refers to another document for the legal representative's postal address and residence. The declaration itself must list the necessary information or applicants may supply an application data sheet. Further, the referenced document is not in English and a translation was not provided.

CONCLUSION

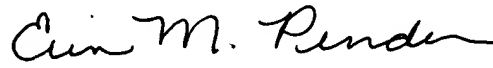
For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Applicant is required to submit a declaration in compliance with 37 CFR 1.497 and 1.42 within a time period of **TWO (2) MONTHS** from the mail date of this Decision. **THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT.** Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Please direct any further correspondence with respect to this matter to the Commissioner of Patents and Trademarks, Box PCT, Washington, D.C. 20231, and address the contents of the letter to the attention of the Office of PCT Legal Administration.



Leonard E. Smith
PCT Legal Examiner
PCT Legal Administration



Erin M. Pender
Attorney Advisor
PCT Legal Administration

Telephone: (703) 305-0455
Facsimile: (703) 308-6459